

REMARKS

Claims 1-37 are pending. A Final Office Action mailed June 5, 2008 rejected Claims 1-37 under 35 U.S.C. § 103. By way of this amendment, Applicant hereby amends Claims 1, 13, 24, 36, and 37. Pursuant to 37 C.F.R. § 1.116, Applicant respectfully traverses this rejection.

REJECTION OF CLAIMS 1-3, 5-11, 13-15, 17-26, AND 28-37 UNDER 35 U.S.C. § 103

The Final Office Action rejected Claims 1-3, 5-11, 13-15, 17-26, and 28-37 as being unpatentable over Downs et al. (hereinafter Downs) in view of Fritsch. The Final Office Action states that Downs discloses authorizing purchase and distribution of a portion of the sale. The Final Office Action further states that Downs does not directly disclose a purchaser of a medium or recording on the medium but states that Fritsch does. The Final Office Action further states that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Downs to include the purchasing and recording of Fritsch since this allows the consumer to buy the rights to copy music as well as purchase the media for doing so on the same website. With regard to amended independent Claim 1, Applicant respectfully traverses this rejection.

Applicant submits that Fritsch discloses that one option is that an online consumer receives via the mail a personally compiled CD containing selections from various artists, as specifically prepared by the website vendor. The cost of the compiled CD is based on the number and price of the songs that are compiled on it (col. 4, lines 37-46; col. 5, lines 26-33; col. 9, lines 1-3). In Fritsch, the authorization to copy onto the to-be-mailed CD is given before the consumer purchases a blank CD. At col. 6, lines 9-12, Fritsch discloses:

“After confirming the receipt of payment, the product is delivered to the consumer. The delivery 26 is carried out by downloading the purchased digital music or text/graphics of the purchased information. Such operation requires the system's digital delivery software module to access a database for storing digital music, text, graphics, images, etc., requesting a copy of the purchased items, copying the purchased items from the database

and transferring the copies of the purchased items to the consumer via the communications link established with the consumer's PC over the Internet.”

The product (music) is purchased before delivery occurs.

Applicant submits that Downs and Fritsch, alone or in combination, fail to teach or suggest purchasing a recording medium, then authorizing the purchaser to make copies of certain works only after the recording medium has been purchased and that the certain works were not purchased before or after the authorization.

Therefore, Applicant submits that independent Claim 1 is allowable over the cited references. Applicant submits that independent Claims 13, 24, 36, and 37 have been amended in a similar manner as to that of Claim 1, therefore they are allowable for the same reasons that make Claim 1 allowable. Because Claims 2-12, 14-23, and 25-35 depend from allowable independent claims, they are allowable for the same reasons that make their corresponding independent claims allowable.

CONCLUSION

Applicant respectfully submits that all of the claims of the pending application are now in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the rejections, allowance, and early passage through issuance. If the Examiner has any questions, the Examiner is invited to contact the Applicant's agent listed below.

Respectfully submitted,

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